

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-11576-DPW

PARTNERS HEALTHCARE
SYSTEM, INC.,

Defendant.

UNITED STATES' RESPONSE TO DEFENDANT PARTNERS
HEALTHCARE SYSTEM, INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY

Comes now the United States of America and responds to the defendant's Notice of Supplemental Authority as follows. The defendant has submitted to the court, as supplemental authority, the recent opinion of the District Court in U.S. v. Mt. Sinai. The issues presented by the United States in its pending motion for summary judgment are (1) whether the salaries paid to the residents are excluded from FICA taxation as qualified scholarships under IRC §117 and (2) whether medical residents can not, as a matter of law, qualify for the FICA student exception under IRC §3121(b)(10). As to the first issue, the hospital's law firm in Mt. Sinai, who is also counsel to the defendant in this case, conceded that issue. As to the second issue raised in our

motion for summary judgment, that issue was not before the court in the Mt. Sinai decision just presented to this court. Thus this most recent Mt. Sinai decision is irrelevant to the issues raised in the United States' pending motion for summary judgment.

MICHAEL J. SULLIVAN
United States Attorney

BARBARA HEALY SMITH
Assistant United States Attorney

/s/ stephen t. lyons
STEPHEN T. LYONS
Senior Trial Attorney
Tax Division, CTS Northern Region
Department of Justice
P.O. Box 55
Ben Franklin Station
Washington, D.C. 20044
(202) 307-6546
e-mail: stephen.t.lyons@usdoj.gov

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing UNITED STATES' RESPONSE TO DEFENDANT PARTNERS HEALTHCARE SYSTEM, INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY has this 29th day of July, 2008, been electronically filed with the Clerk of the District Court using its CM/ECF system.

/s/ stephen t. lyons
STEPHEN T. LYONS
Senior Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6546